

## § 1701.6

process the request. On expiration of the time limit he shall inform the requester of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of his rights to treat the delay as a denial and appeal to the Executive Director in accordance with § 1701.7. He may also ask the requester to forgo appeal until a determination is made.

[40 FR 7653, Feb. 21, 1975]

### § 1701.6 Form of denial.

A reply denying a request shall be in writing, signed by the Associate Director, and shall include: (a) A specific reference to the exemption or exemptions under the Freedom of Information Act authorizing the withholding of the record, (b) brief explanation of how the exemption(s) applies to the record(s) withheld, (c) a statement that the denial may be appealed under § 1701.7 within thirty days by writing to the Executive Director, National Commission on Libraries and Information Science, Suite 601, 1717 K Street NW., Washington, DC 20036, and (d) that judicial review will thereafter be available in the district in which the requester resides or has his principal place of business, the district in which the agency records are situated, or in the District of Columbia.

[40 FR 7653, Feb. 21, 1975]

### § 1701.7 Appeals.

(a) When the Associate Director has denied a request for records in whole or in part, the requester may, within thirty days of receipt of the letter notifying him of the denial, appeal to the Commission. Appeals to the Commission shall be in writing, addressed to the Executive Director, National Commission on Libraries and Information Science, 1717 K Street NW., Washington, DC 20036.

(b) The Commission will act upon an appeal within twenty days (excepting Saturdays, Sundays or legal public holidays) of its receipt, unless an extension is made under paragraph (c) of this section.

(c) In unusual circumstances as specified in this paragraph, the time for action on an appeal may be extended up to ten days (excluding Saturdays, Sun-

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days, and legal public holidays) minus any extension granted at the initial request level pursuant to § 1701.5(c). Such extension shall be made by written notice to the requester setting forth the reason for the extension and the date on which a determination is expected to be dispatched. As used in this paragraph “unusual circumstances” means, but only to the extent necessary to the proper processing of the appeal—

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the Commission;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request.

(d) If no determination of the appeal has been dispatched at the end of the twenty-day period or the last extension thereof, the requester is deemed to have exhausted his administrative remedies, giving rise to a right of review in a district court of the United States as specified in 5 U.S.C. 552(a)(4). When no determination can be dispatched within the applicable time limit, the appeal will nevertheless continue to be processed. On expiration of the time limit the requester shall be informed of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of his right to seek judicial review in the United States district court in the district in which he resides or has his principal place of business, the district in which the records are situated, or the District of Columbia. The requester may be asked to forgo judicial review until determination of the appeal.

(e) The Commission's determination on appeal shall be in writing. An affirmance in whole or in part of a denial on appeal shall include: (1) A reference to the specific exemption or exemptions under the Freedom of Information Act authorizing the withholding of the record,

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(2) A brief explanation of how the exemption(s) applies to the record(s) withheld, and

(3) A statement that judicial review of the denial is available in the district in which the requester resides or has his principal place of business, the district in which the agency records are situated, or the District of Columbia.

[40 FR 7653, Feb. 21, 1975]

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AUTHORITY: 5 U.S.C. 552b.

SOURCE: 42 FR 13553, Mar. 11, 1977, unless otherwise noted.

#### Subpart A—General Provisions

##### § 1703.101 Purpose.

This part sets forth the regulations under which the Commission shall engage in public decision-making processes, make public announcement of meetings at which a quorum of or all Commission members consider and determine official Commission action, and inform the public of which meetings they are entitled to observe.

##### § 1703.102 Definitions.

In this part:

(a) *Meeting* means the deliberations of a majority of the Commission members who have been appointed by the President and confirmed by the Senate where such deliberations determine or result in the joint conduct of official Commission business.

(b) *Member* means one of the Commissioners of the National Commission on Libraries and Information Science (NCLIS) who is appointed to that position by the President with the advice and consent of the Senate.

##### § 1703.103 Applicability and scope.

This part applies to deliberations of a majority of the Commission members who have been appointed by the President and confirmed by the Senate. Excluded from coverage of this part are deliberations of interagency committees whose composition includes Commission members and deliberations of Commission officials who are not members; individual member's consideration of official agency business circulated to the members in writing for disposition or notation; and deliberations by the agency in determining whether or not to close a portion or portions of a meeting or series of meetings as provided in § 1703.202.

##### § 1703.104 Open meeting policy.

The public is entitled to the fullest practicable information regarding the decision-making processes of the Commission. Commission meetings involving deliberations which determine or result in the joint conduct or disposition of official Commission business